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TAGS: [ECON](#) [ETRD](#) [EAID](#) [PGOV](#) [PK](#)  
SUBJECT: COMPETITION COMMISSION LIVES ON-AT LEAST FOR NOW

REFs: A. ISLAMABAD 1784  
[1](#)B. ISLAMABAD 2973

[1](#)1. (SBU) Summary: Since its inception in 2007 by Presidential decree, the Competition Commission of Pakistan (CCP) has fought collusive behavior, promoted a competitive environment in Pakistan and made a number of enemies in the process. A law to provide a permanent legal framework for the CCP is currently being held up in the National Assembly, sparking rumors that powerful cartels are trying to influence the National Assembly's decision. As with several other ordinances, President Zardari re-promulgated the Competition Ordinance on November 27, allowing the CCP to continue operating until the National Assembly decides its fate. CCP staff is confident that the bill will eventually pass, but fear that politically-tied businessmen may sway the National Assembly to reduce the CCP's regulatory authority. Federal Trade Commission (FTC) support would lend tacit political support to the CCP while providing needed technical assistance. End Summary.

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Pakistan's Trust Buster  
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[1](#)2. (SBU) Led by a "diligent and politically fearless chairman", Khalid Mirza, the Competition Commission of Pakistan has over the past two years developed a positive track record of going after powerful cartels, winning kudos from the press and public. The Competition Ordinance of 2007 was enacted by former President Musharraf as part of the GOP's competitive policy framework to improve the local investment climate and promote economic development. The ordinance was set to expire on November 28 as a part of the Supreme Court decision of July 31 (ref A). The CCP is an independent structure designed to encourage economic competition and protect consumer interests by regulating monopolies and combating collusive practices. Since its creation, the CCP has filed 76 cases against local businesses, including alleged cartels in the sugar, LPG, banking and cement industries.

[1](#)3. (SBU) The CCP's most recent high profile case involved the Jamshoro Joint Venture Limited (JJVL), the country's largest LPG producer, and the Liquefied Petroleum Gas Association of Pakistan (LPGAP), the largest association of local LPG marketing companies. According to the CCP's investigation, JJVL and LPGAP were involved in price fixing, intentionally manipulating the supply and the price of locally produced LPG in order to push LPG importers, such as Progas, out of the market. CCP fined the companies \$3.7 million for their actions. JJVL and LPGAP are currently contesting the CCP's

ruling with the Supreme Court.

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New Law Stalled  
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¶4. (SBU) The National Assembly Standing Committee on Finance approved the Competition Bill 2009, the law that will provide the legal framework for the CCP, with no amendments, but the bill subsequently stalled in the National Assembly. For weeks, local print media speculated that the bill would not pass because of "interference on the part of powerful business owners with strong political clout." As he did with the Anti-Money Laundering Ordinance (ref B) President Zardari stepped in at the last minute, re-promulgating the Competition Ordinance on November 27, one day before it was to lapse keeping the CCP alive.

¶5. (SBU) While confident that the National Assembly would pass the Competition Bill, CPP board member Rahat Kaunain said her biggest concern was that the bill "would be amended to render the organization toothless." Currently, the maximum penalty that the CCP can impose on a company found guilty of anticompetitive practices is 15 percent of the business' latest turnover. According to Kaunain, one of the proposed changes to the bill includes the criminalization of cartels; this would entail the enforcement of jail-time for guilty parties, but would remove the CCP's ability to levy any monetary fines on these companies. Kaunain indicated that such changes would defeat the purpose of the bill, bogging anti-trust cases in the courts and rendering the CCP ineffective.

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Need for Technical Support  
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¶6. (SBU) CCP Chairman Khalid Mirza told Econoff that the lack of adequate local training for CCP staff was hindering its effectiveness. According to Mirza, "senior board members have to train employees themselves; this is putting a strain on the organization's resources." The Federal Trade Commission (FTC) recently contacted Post, and Mirza, with its interest in providing technical assistance to CCP beginning with an initial, on-the-ground needs assessment of its operations to identify possible areas of intervention. One of the proposed programs would provide the CCP with a full-time resident adviser from FTC to facilitate staff training. Mirza said that he welcomed the idea, adding that the CCP ordinance was modeled on U.S. law, making it especially suited for Federal Trade Commission training on anti-trust standards and best practices.

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The Future of CCP  
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¶7. (SBU) Comment: The CCP has a compelling track record of taking on anti-competitive practices that stymie Pakistan's economy. Much of the CCP's success is attributed to the work of its chairman. With Mirza slated to leave the chairmanship in June 2010, the CCP's ability to continue operating effectively will not only depend on whether or not its powers are watered down by the National Assembly, but on the institutional capacity of the organization Mirza leaves behind. Post supports building on CCP's established linkages to the FTC, whose suggested program is a practical, relatively low-cost means to lend both technical and political support to Pakistan's market economy. End Comment.

PATTERSON